

Heard Mr. D.C. Mahanta, learned senior counsel for the petitioner and also Ms. B. Das, learned Standing Counsel for the Education Department.

The petitioner was initially appointed as Lecturer in the stream of Mathematics against a non-sanctioned post in Lanka Mahavidyalaya, Lanka, Nagaon in pursuance of an advertisement issued and published in the issue of the Sentinel dated 22nd August, 1998. The appointment was made on ad-hoc basis by the order dated 15th February, 1999 when the College itself was a private college. The said College was taken over under Deficit Grant-in-Grant System by the State Government by the order dated 26.2.1999. The resolution appointing the petitioner and others was also approved by the Director of Higher Education by the order communicated vide letter dated 21.8.2000. In pursuance of the approval accorded by the Director, the Principal-in-Charge by the order dated 22.8.2000 appointed afresh the petitioner as Lecturer in Mathematics against a sanctioned post in the scale of pay of Rs.8000 - 13,500/-. The appointment was made subject to the condition that the petitioner should acquire the NET/SLET and till such clearance he would be treated as on probation and liable to be discharged if he fails to obtain the clearance. It was further stipulated that the petitioner would draw the minimum of the scale of Rs.8000/- per month during the aforesaid period of probation. The order passed by the Principal was also approved by the Director of Higher Education vide order communicated vide letter dated 29.8.2000. Thereafter, the Director by the letter dated 12th September, 2000 (Annexure-D to the affidavit-in-opposition) informed the Principal of the College that the approval was accorded through oversight and, hence, it was withdrawn. Further direction was also given not to make any payment to the writ petitioner. Being aggrieved by this order dated 12th September, 2000, the petitioner filed this petition praying for appropriate direction for his continuance in service.

This Court while issuing notice of motion by the order dated 29.9.2000 stayed the operation of the order. On the strength of this interim direction, it is submitted by Mr. Mahanta, the petitioner is continuing in service.

The consequence of withdrawal of the approval earlier accorded by the Director is that the writ petitioner would be out of service. It is on this apprehension he has approached this Court. Mr. Mahanta, learned senior counsel submitted a copy of the office memorandum dated 17th July, 2004 issued by the Secretary to the Government of Assam in the Education Department prescribing guidelines for adjustment/absorption of ad-hoc Lecturer who were appointed in different Colleges in the State of Assam prior to the Colleges were brought under Deficit-in-Grant System. Mr. Mahanta submitted that the case of the petitioner may be referred to the respondent authority for consideration of his case in terms of the said office memorandum.

At this point, Ms. B. Das, learned counsel for the Education Department submitted that the petitioner cannot be adjusted against a sanctioned vacancy since he has not qualified in the NET/SLET examination. But the memorandum provides that the teachers working under non-sanctioned post will be eligible for adjustment against vacant post subject to their qualifying in the NET/SLET within two years if they do not possess already. It further provides that in case of not qualifying within six months in the NET/SLET examination, their services would be discontinued. Till they acquire the qualification prescribed within the stipulated period, they would only be entitled to basic pay for the services rendered.

In view of the aforesaid provisions in the office memorandum, I do not find any reason as to why petitioner's case will not be considered as suggested by Mr. Mahanta, learned senior counsel.

Therefore, this writ petition is disposed of with direction to the respondent authority to examine the claim of the writ petitioner in terms of the office memorandum dated 17th July, 2004 and to pass appropriate orders as may be considered expedient in the given circumstances of the case and in accordance with the provisions of the office memorandum. Needless to say, the petitioner will continue in service till the exercise is completed.

No costs.